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Report of the Secretary-General on children and armed conflict in Myanmar

Summary

The present report, which has been prepared pursuant to Security Council resolution 1612 (2005), covers the period from 1 October 2007 to 31 March 2009 and is the second report on children and armed conflict in Myanmar to be presented to the Security Council and its Working Group on Children and Armed Conflict.

The report provides information on the grave violations against children in Myanmar and identifies State and non-State parties to the conflict responsible for such violations. It highlights the fact that United Nations agencies and its partners in Myanmar remain constrained by the absence of an agreed action plan and access and security impediments which present a challenge for effective monitoring and reporting efforts, and for the provision of a comprehensive account of grave violations being perpetrated by a range of armed forces and groups in Myanmar.

The report notes various levels of contact and some progress in establishing child protection dialogue between the United Nations Resident Coordinator, the United Nations country team, the country task force and the Government, as well as some ceasefire groups. It also recognizes several important ongoing initiatives by the Government of Myanmar to address the issue of underage recruitment into military service since my first report and pursuant to Security Council Working Group conclusions, including actions to discharge underage children, and training and awareness-raising activities for military personnel on international and national law on the prevention of recruitment of children.

The report stresses the need for the Governments concerned to facilitate dialogue between the United Nations and the Karen National Union and Karenni National Progressive Party for the purposes of signing an action plan in accordance with Security Council resolutions 1539 (2004) and 1612 (2005), following their initial deeds of commitment.

Finally, the report contains a series of recommendations aimed at securing strengthened action for the protection of children in Myanmar.

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I. Introduction

1. The present report, covering the period from October 2007 to March 2009, has been prepared in accordance with Security Council resolution 1612 (2005), and specifies grave violations against children affected by armed conflict in Myanmar. The present report is a follow-up to my first report (S/2007/666), and provides an update on the implementation of the conclusions of the Working Group of the Security Council on Children and Armed Conflict (S/AC.51/2008/8) issued on 25 July 2008, pursuant to my first report.

2. There have been several positive initiatives undertaken and measures purportedly implemented by the Government of Myanmar to prevent and halt the recruitment and use of children. However, the country task force on monitoring and reporting has been unable to verify many of the outcomes of those initiatives. United Nations agencies and international non-governmental organization staff in Myanmar remained constrained by the absence of an agreed action plan; the lack of adequate access to contested and ceasefire areas; the lack of security guarantees for victims and witnesses reporting on grave rights violations; and restricted freedom of movement of United Nations and international non-governmental organization (INGO) staff (other than International Labour Organization (ILO) staff), that is, without government escorts. The severe restriction of access by the Government to locations of concern continues to limit the ability of the country task force and its partners to monitor and report on grave violations being perpetrated against children by all parties to the conflict, despite the fact that the basic structures of the monitoring and reporting mechanism have been in place since February 2007. While the Government has facilitated an initial meeting between members of the country task force and the Karen National Union/Karen National Liberation Army (KNU/KNLA) Peace Council and the Democratic Karen Buddhist Army, and with further meetings to progress action plan discussions being planned, the Government has been reticent to allow for further dialogue between the United Nations and the KNU/KNLA and the Karenni National Progressive Party/Karenni Army (KNPP/KA) for the purposes of signing an action plan following their initial deeds of commitment, thereby impeding progress on securing the release and rehabilitation of children associated with those groups.

II. Political, military and social developments in Myanmar

3. The country is undertaking some structural political changes and as such, there are certain levels of uncertainty in respect to the transition period. The position of certain ceasefire groups remains unclear. Sudden changes in the configuration could affect progress on the release of children and progress on monitoring and reporting of grave violations against children by the armed forces and armed groups in Myanmar.

4. In May 2008, cyclone Nargis caused widespread destruction and loss of life in Myanmar, leaving an estimated 140,000 dead or missing. The Ayeyarwaddy Delta and Yangon Division were badly damaged, with some 2.4 million people severely affected, including by the loss of shelter, livelihood, and access to food and water. A total of 4,000 schools and more than 600 health facilities were destroyed or damaged, and hundreds of children were orphaned or separated from their parents and relatives.

III. Grave violations of children's rights

5. The access and security impediments described above present a challenge to the provision of a comprehensive account of grave violations against children by a range of armed forces and groups in Myanmar. The present report is based on the limited information currently available to the country task force, and therefore is only indicative of the gravity and scale of violations against children.

6. The data on incidents of grave violations against children included in this report have been compiled from confirmed information from and observations of United Nations agencies and child-protection partners. Where possible, the members of the country task force conducted first-hand interviews on a confidential basis, in order to verify the initial information received. Verification activity on allegations of child soldiering is currently restricted to the follow-up of formal complaints received under the Supplementary Understanding complaints mechanism signed between ILO and the Government.

7. I welcome the statement made by the Permanent Representative of the Union of Myanmar to the United Nations, Kyaw Tint Swe, at the Security Council open debate on 29 April 2009 and look forward to the country task force working more closely with the Government Task Force.

A. Recruitment of children by armed forces and groups

Tatmadaw Kyi

8. The country task force has received numerous credible reports concerning the recruitment and use of children by some Government military units of the Tatmadaw Kyi.

9. Apart from the common patterns of underage recruitment into the Tatmadaw highlighted in my last report, including the recruitment of poor and unaccompanied children from the streets, railway stations or Buddhist pagodas, reports indicate that elements of the Tatmadaw Kyi have recently targeted young novice monks from monasteries for recruitment. An indicative case, as yet unverified, but received from reliable sources, occurred on 22 August 2008, when a lance corporal from a local battalion of the army recruited two boys, aged 13 and 15, respectively, from a monastery in a Nargis-affected township in the Ayeyarwaddy Division. The boys were later released, following intervention from the abbot.

10. It appears that, when soldiers are involved in underage recruitment, this commonly (although not exclusively) occurs in areas close to recruitment centres, such as in the Yangon and Mandalay Divisions, but civilian brokers who are offered cash by soldiers for new recruits travel further afield to find recruits and often use deceit to persuade the children to go with them. In another indicative case, a 15-year-old boy who fled from a battalion in the Mandalay Division to a nearby village reported that, under the pretext of gaining good employment, a broker had persuaded him to go with him; however the broker had then handed him over to army personnel from a recruitment centre.

11. Reports also indicate that orphans are often targeted for recruitment into the military. Another case, unverified but received from credible sources, reported that, on 14 August 2008, a group of soldiers from a battalion based in Myothit abducted a

14-year-old orphan boy from a village in Kachin State. When the boy's brother and representatives of the village appealed for his release at the Makhoy battalion command post, they were denied access to the military authorities and the child.

12. According to ILO, in most cases, underage recruits go through the full formal recruitment process and are required to undertake approximately four and one-half months of training before being sent to their duty station. In a few cases, children have been recruited directly into an operational unit. There is no information available to confirm whether or not this latter case is, in fact, the norm. However, post-discharge interviews have established that, during senior officers' visits to recruiting centres, training camps and operational units, children in the ranks are instructed to hide until the officers complete their inspection and leave. This could suggest that, in some areas, the initiative to recruit young children into the army is that of lower rank and/or field level officers. Indeed, some rank-and-file soldiers have talked of their confusion about receiving instructions to find new recruits, but at the same time being told not to recruit children.

13. The following cases were recorded by ILO:

- A boy was 11 years old when an army sergeant took him forcibly from the railway station and recruited him into the Tatmadaw Kyi under threat of imprisonment. The recruitment personnel registered him under a false name even though he was 11 years old. After undergoing basic training, he was posted to an artillery battery. The child remained in the Tatmadaw Kyi for approximately two years and eight months before running away to return to his home. Subsequently, out of fear of being arrested for desertion, he decided that it was safest to submit himself for recruitment to the Tatmadaw Kyi in a different unit. Although he was still underage, he was recruited again under a falsified name and age. He served another two years in his new unit before running away again, but was caught and arrested for desertion. He was convicted for desertion and sentenced to two years' imprisonment. He was transferred to a convict labour camp and was required to plant rubber trees and perform sentry duty. In October 2008, he attempted to escape but was again caught. He was charged with escaping, given an additional one year on his original sentence and sent to a quarry labour camp. His case was bought to the attention of ILO and he was eventually released from prison. All charges were subsequently dropped and he was formally discharged from the Tatmadaw Kyi. Upon his release, he was suffering from scabies, malaria and suspected hepatitis, with associated liver problems, and he has been diagnosed with HIV/AIDS. He is currently undergoing medical treatment;

- Another boy was also recruited when he was 11 years old. He met a civilian army recruiting agent at a monastery and was taken and recruited into the Tatmadaw Kyi. After a period of time, the child was able to make contact with his parents and with ILO intervention, he was discharged. The recruitment officer responsible for his recruitment received only a reprimand. Ten months after the child was discharged, he was again recruited into the Tatmadaw Kyi. On that occasion, he was accosted at the Mandalay railway station while waiting for his train to go home to Yangon. Despite declaring his age and the fact that he had formal discharge papers, he was taken to the recruiting office. He refused to cooperate and was beaten until he did. He managed to get word

to his family and again, with ILO intervention, he was discharged from the Tatmadaw Kyi;

- A 15-year-old boy presented himself to a recruitment centre and was rejected due to the fact that he had not yet attained the minimum age. He was told to return when he was 18 years old. Given the family's dire poverty, his mother helped him to get into the army by presenting the birth certificate of her elder son, who was 19 years old. The recruiting officer accepted him, despite commenting that the boy did not look 19 years old. Upon completion of the training, his unit was posted to the front line; he ran away and, with ILO intervention, was discharged from the Tatmadaw Kyi.

14. According to official reports made available by the Ministry of Foreign Affairs, the Government continues to screen and release underage children found in its armed forces during the training process. The Government reported that, from December 2007 to December 2008, 76 children had been detected in various military training schools and released to their parents and guardians. It acknowledged that three of those cases had International Committee of the Red Cross (ICRC) and/or ILO involvement. In fact, during that calendar year, ILO alone had submitted 31 cases for investigation, of which 18 had been released and discharged by 31 December 2008. However, in cases where children had not been released through the ILO mechanism or ICRC, the country task force has been unable to verify those releases.

15. For the period from October 2007 to March 2009, ILO has received a total of 40 cases of underage recruitment mostly based on complaints filed by parents and/or relatives through the ILO complaints mechanism and has verified the release of 28 of these children. An additional 12 cases either await Government response or remain open while the process continues. Most of the cases reported to ILO relate to forced military recruitment by the Tatmadaw, which mainly occurs in major cities, which would appear to confirm that the level of awareness as to the right to complain is low in most of the country.

16. The complaints lodged have been dealt with expeditiously by the Government's Working Group for the elimination of forced labour. They are, however, considered to represent only a small portion of the total problem, due to a general lack of knowledge as to the right to lodge a complaint and the fear of retribution for registering a complaint. ILO reports that, where a complaint is accompanied by the documentation of age, clear identification details and the specific location of the recruit, the victim is invariably discharged to their parents or guardians. Without a specific ILO complaint, the Government does not actively seek out children in the army or take proactive action on requests to investigate, even when released children confirm the presence of other children in their units. Hence, although the Government expresses commitment to the non-recruitment of children into the Tatmadaw and, when faced with firm evidence, acts positively on that evidence, there remains a reticence to expand this to a more developed and open monitoring function. It is hoped that substantive discussions with the Government can be held shortly, with a view to agreeing on a cooperative, expanded working procedure to supplement the existing ILO mechanism.

Chin National Front/Chin National Army[1]

17. The Chin National Front/Chin National Army (CNF/CNA) shared a copy of their "deed of commitment" with the United Nations on 15 March 2009, reaffirming that the group does not recruit any persons under the age of 18, and reiterating its commitment to facilitate independent monitoring by a third party, as well as to develop a time-bound action plan in accordance with Security Council resolution 1612 (2005). CNF/CNA also requested appropriate assistance by the United Nations and non-governmental organizations to address the physical and psychological well-being and social reintegration of demobilized or released children formerly with CNA. The country task force will seek to follow up on this within the coming months.

Democratic Karen Buddhist Army

18. Information received from reliable sources through the country task force confirms that many children, armed and in military uniforms, have been observed with the Democratic Karen Buddhist Army (DKBA) in Karen State. DKBA has, however, denied recruiting children.

Kachin Independence Organization/Kachin Independence Army

19. Children are assumed to be present in the ranks of the Kachin Independence Army (KIA). However, according to KIA, any person under the age of 18 who attempts to join the group is not accepted and is sent to school instead. The country task force was unable to establish contact with this group in the reporting period.

Karen National Union/Karen National Liberation Army Peace Council

20. Children are assumed to be present with the KNU/KNLA Peace Council. The group has informed the United Nations that it does not recruit persons under the age of 20 into its ranks.

Karen National Union/Karen National Liberation Army

21. The country task force received verified reports from camps in the border areas of two cases of child recruitment by KNU/KNLA during the reporting period.

22. Details of the incidents are as follows:

- A 14-year-old boy escaped from KNU in January 2008 after being forced to join the group in September 2006. The boy is currently in hiding, as he believes the battalion commander is searching for him;
- On 12 February 2009, a 14-year-old boy accompanied a KNU medical officer to the KNU military base, following the officer's visit to the refugee camp. The boy is currently in the custody of KNU Brigade 4, Battalion 10, led by Commander La Hser.

[1] This group was not included in the first report of the Secretary-General on children and armed conflict in Myanmar (S/2007/666).

Karenni National Progressive Party/Karenni Army

23. The country task force received verified reports from camps along the border areas of three cases of children associated with KNPP/KA during the reporting period.

24. Details of two incidents are as follows:

- In June 2008, a 16-year-old boy travelled from his camp to a KNPP base and presented himself for recruitment. KNPP accepted him. Although his family has made five visits to the KNPP base to request that the child be returned to his camp, their requests have been refused by KNPP soldiers. The parents reportedly sighted approximately 20 children at the base;
- A 17-year-old boy travelled to a KNPP base in June 2008, as he wanted to become a soldier. He was accepted by KNPP and spent three days at the base, doing cleaning and digging tasks. However, his mother found him and took him back to the refugee camp.

25. Following its continued listing in the annexes of my seventh report (S/2007/757), the KNPP leadership issued a communiqué to my Special Representative in February 2009, highlighting the fact that they have invited the United Nations on several occasions to monitor its military bases and areas of operations and have offered open and independent access for compliance verification, as well as expressed their willingness to dialogue with the United Nations. The United Nations has been prevented from doing so by the Government of Myanmar to date. KNPP reiterated its non-underage recruitment policy and appealed that the group be removed from the annexes.

Karenni National People's Liberation Front

26. Children are reportedly present in the Karenni National People's Liberation Front (KNPLF), although the country task force has been unable to determine the full extent of children's association with the group. However, in August 2008, the country task force verified the case of a 16-year-old boy who had escaped from KNPLF. He reported that he had become a soldier in 2006 and had been assigned to do manual labour.

Myanmar National Democratic Alliance Army (Kokang)/Kokang Army

27. Reliable information received in March 2009 through the country task force indicates that every household in Kokang Army areas with more than one child has to provide at least one child to the group. According to the reports, both boys and girls, including those under the age of 15, are recruited; and families who have more daughters than sons will, in most cases, send their girl children. The country task force will seek to follow up on these reports in the coming months.

Shan State Army-South and Shan National Population Liberation Organization[2]

28. Credible reports have been received that in Shan State Army-South villages (SSA-S) and areas of Hsi Saing and Phe Khone townships, Southern Shan,

[2] This group was not included in the first report of the Secretary-General on children and armed conflict in Myanmar (S/2007/666).

controlled by the Shan National Population Liberation Organization (SNPLO) communities are requested to provide two recruits yearly. There is no confirmed indication as to the age of those recruited, although there is reasonable suspicion that many may be underage. The country task force has not been able to verify this information, as there is no access to those areas.

29. In a media report on 10 February 2009, SSA-S leader, Colonel Yawdserk, denied reports that the group recruits children and invited the United Nations to carry out investigation and verification visits. This is being followed up by the country task force.

United Wa State Army

30. Eyewitness reports to the country task force indicate the presence of uniformed children, many clearly under the age of 18, in the United Wa State Army (UWSA). A visit by the United Nations Children's Fund (UNICEF) to the Wa State in January 2008 confirmed those sightings (see para. 51). Children can be regularly observed riding on UWSA pick-up trucks or manning UWSA checkpoints. Witness accounts from some villages in Southern Wa indicate an existence of a mechanism of recruitment, whereby village tract authorities are requested to provide three to four children, preferably boys or young men, on a yearly basis. The village tract authorities select which villages will be involved, and in the selected villages, households are selected on a rotational basis. This is apparently perceived by villagers as non-negotiable, and can therefore lead to selected households hiding other children by not sending them to school and keeping them at home to carry out daily chores, if their sibling is recruited. The Central Wa Authority usually justifies child recruitment on social grounds, that is, as an opportunity for them to receive free education and food. The older children (12 to 18 years old) undergo direct military training, whereas the younger children (6 to 11 years old) are sent to military-run schools and are later recruited.

31. Information received from reliable sources in Northern Wa highlighted that, in cases where a household does not have boys to "contribute", the Wa authorities request girl children. Most of the children are aged 10 and above, although in some instances much younger children were recruited. The children live in training camps and are educated there by UWSA. It has been observed that the children are used in supporting roles. For example, during the bazaar day in Namtit, Northern Wa, young recruits, usually accompanied by their team leader, are tasked with purchasing materials and supplies for the camps.

B. Denial of humanitarian access

32. The delivery of humanitarian assistance by United Nations agencies and other humanitarian organizations in Myanmar to vulnerable populations, the majority of which are children, remains limited at present in many relevant parts of the country, particularly in contested and ceasefire areas. The Government continues to cite security concerns as a reason for refusing access, although there is no evidence that security is a serious problem and particular groups have offered security assurances to United Nations staff. In addition, the Government itself, in a letter dated 28 April 2009, asserted that "the insurgency no longer exists in Myanmar" (see para. 48). Furthermore, the Government insistence on Government liaison officers

accompanying international staff of many United Nations agencies and international NGOs on all trips to the field (outside Nargis-affected areas) is a serious impediment to the independent and efficient operation of the humanitarian programmes.

33. Access impediments, such as delays in processing permits for internal travel and for the movement of relief commodities, are sometimes caused by the multiple level authorizations required in some areas. This has a detrimental impact on the speed at which humanitarian aid is made available to children. For example, United Nations and humanitarian organizations are required to apply for separate travel permits with the Wa district and township authorities on a weekly or monthly basis, in addition to the mandatory registration of all staff to the Central Wa authorities.

34. Reluctance by Government authorities to support community participatory and technical assessment of needs is also hampering the effective targeting of relief assistance to vulnerable populations, including children.

35. Following the initial hesitancy of the Government to allow access to United Nations and international relief agencies to the victims of cyclone Nargis including hundreds of children, in May 2008, the Government acknowledged the need for international relief efforts to complement those of national actors when the extent of the impact of the cyclone became evident. Since then, access has largely been unimpeded to date with some sporadic exceptions. United Nations agencies and international NGOs are stressing the need for the Government to allow and facilitate similar access to all vulnerable areas of the country, especially contested and ceasefire areas.

C. Killing and maiming of children

36. According to the Landmine Monitor,[3] both Government troops and non-State armed groups, such as KNLA, KA, DKBA, SSA-S, UWSA and the Monland Restoration Party, continued to use anti-personnel mines in 2007 and 2008 in order to restrict the movement of people, hinder the movement of troops, or to mark areas of operations. The report indicates that there were at least 463 new casualties caused by mines and unexploded remnants of war from January 2007 to 28 April 2008, although disaggregated data by gender and age of victims is unavailable.

37. Villagers and internally displaced persons, including children, in locations along the eastern border areas of Myanmar continue to suffer serious threats to their lives from the effects of the use of anti-personnel mines. In one case verified by the country task force, on 25 January 2008, a 10-year-old boy from Kayin State stepped on a mine and suffered serious wounds to his right leg, which was later amputated at the hospital. The mine had been buried at the perimeter of an army camp, indicating that it was meant to protect the army base and was thus unlikely to have been laid by an insurgent group.

[3] Landmine Monitor is the research and monitoring initiative of the International Campaign to Ban Landmines (ICBL) and the de facto monitoring regime for the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Mine Ban Treaty). It independently and impartially monitors and reports on States Parties' implementation of and compliance with the Mine Ban Treaty.

38. UNICEF reports that there have not been any official records on child victims of anti-personnel mines from hospitals in areas where it operates. However, according to the Government, although the national health management information system compiles health and hospital data from all states and divisions, the Ministry of Health does not separate injuries due to mines or unexploded remnants of war from other traumatic injuries. In addition, due to the limited scope of data collection and a lack of access to contested and ceasefire areas of the country, many casualties remain unreported.

D. Rape and other grave sexual violence

39. In November 2008, the Committee on the Elimination of Discrimination against Women expressed deep concern at the high prevalence of rape and other forms of grave sexual violence perpetrated against rural women from the Shan, Mon, Karen, Palaung and Chin ethnic groups by members of the armed forces; the apparent impunity of the perpetrators of such violence; and at reports of threats against and intimidation and punishment of victims. In one case, on 27 December 2008, a soldier allegedly from the Light Infantry of Burma (LIB 350), abducted, raped and killed a 7-year-old girl near her house in Ma Oo Bin village, Karen State. To date, no reported action has been taken to bring the perpetrator to justice.

40. Owing to limited access to the relevant contested and ceasefire areas of the country, the country task force was unable to obtain more information on cases of rape and sexual violence against children by parties to the conflict. The country task force requires unrestricted access to such areas of concern, in addition to strengthening its efforts to improve sexual violence reporting.

E. Abduction of children

41. As described under section III.A, there are numerous reports of children being abducted by Tatmadaw forces for recruitment purposes. In urban areas, the target areas for child recruitment include crowded locations, such as railway stations or the streets where children are working or begging. In rural areas, children have been reported to have been abducted while on the way to or from school.

42. According to reports received by the country task force, the typical technique often used by military recruiters is to threaten children with arrest or imprisonment on fictitious charges, such as truancy or loitering, and give them the choice of prosecution or enlistment into the Tatmadaw forces. The children are subsequently enrolled in recruitment centres before being sent for military training.

IV. Dialogue and action plans to redress violations of children's rights

A. Progress on dialogue and action plans with the Government of Myanmar

43. The Government agreed to update the Tatmadaw Kyi action plan to bring it in line with international standards in conjunction with the country task force as part of

several commitments made to my Special Representative during her visit in July 2007.

44. The co-Chair of the United Nations country task force met with the Government's monitoring and reporting task force on the prevention of military recruitment of underage children to advance discussions on the action plan development and implementation on 24 December 2008 and 12 March 2009. On 27 March 2009, the country task force shared with the Government a copy of the draft action plan. Among the critical components of the revised action plan is the need for independent, unaccompanied access by the United Nations to recruitment centres, camps and training centres for monitoring, reporting and verification of compliance; the need for access to all non-State actors to facilitate dialogue on action plans; and to ensure the security and safety of monitors and witnesses. This would include providing access to the United Nations to verify that no retaliatory action has been taken against witnesses or victims. The Government confirmed that officials from various line ministries, in particular the Ministry of Defence, are currently holding detailed discussions and reviewing the document thoroughly. Regrettably, to date, there has been no formal full meeting between the country task force and Government high-level Committee. The country task force looks forward to such a full meeting being held shortly.

B. Progress on dialogue and action plans with non-State actors

45. The Security Council Working Group, in its conclusions of July 2008, requested that my Special Representative consider ways and means, in close consultation with the Government of Myanmar, to transmit the message of the Chairman of the Working Group to the leaders of the armed groups mentioned in my report S/2007/666.

46. Pursuant to the above, the Government has facilitated initial meetings with the KNU-KNLA Peace Council and DKBA, with additional meetings to further discuss proposed action plans. Whereas the country task force is prepared to engage with KNU and KNPP, the Government remains reticent to allow any dialogue with these groups. An initial discussion was also carried out with UWSA following its commitment to engage in an action plan with the country task force. It is important to bear in mind the humanitarian imperative to support the release, reintegration and rehabilitation of children associated with these groups as a matter of priority.

Karen National Union/Karen National Liberation Army and the Karenni National Progressive Party/Karenni Army

47. During her mission to Myanmar in July 2007, my Special Representative received the permission of the Prime Minister, then Secretary-1, Lieutenant General Thein Sein, for the country task force in Myanmar to take the lead in engaging with KNU and KNPP in the light of their declared commitments to cease the recruitment and use of children according to Security Council resolutions 1539 (2004) and 1612 (2005), to demobilize and release children in their ranks, and to allow for independent verification by the United Nations of compliance. In line with that commitment, the country task force in Myanmar was prepared to undertake discussions with KNU, KNPP and other relevant parties in order to finalize an action plan to cease the recruitment and use of children in the border areas. The

permission was subsequently rescinded by the Minister for Foreign Affairs in his discussions with my Special Representative in September 2008.

48. My Special Representative had transmitted the message of the Chairman of the Working Group to the country task forces in Myanmar and Thailand, respectively, for necessary action with KNU and KNPP. The task forces have, however, been unable to make contact with those groups to date, primarily due to resistance from the Government of Myanmar to allow access to those groups by the United Nations, despite the fact that such contact would not imply political or legal recognition of those non-State parties. On 5 March 2009, my Special Representative sent a letter to the Government of Myanmar indicating her concern about the lack of access to KNU and KNPP, and seeking clarification on its official policy regarding cooperation between the country task force and those groups. On 28 April 2009, my Special Representative received a reply from the Government of Myanmar to the effect that it was not feasible to arrange a meeting with KNU/KNPP, as "the insurgency no longer exists in Myanmar, but there are only a few who have taken refuge in the neighbouring country".

Karen National Union/Karen National Liberation Army Peace Council and the Democratic Karen Buddhist Army

49. The United Nations Special Rapporteur on Human Rights in Myanmar, together with three members of the country task force visited Kayin (Karen) State on 15 and 16 February 2009, and met with leaders of the KNU-KNLA Peace Council and Democratic Karen Buddhist Army (DKBA) who have both concluded a ceasefire agreement with the Government. Both factions denied recruiting children as soldiers and confirmed their preparedness to engage with the country task force, including by allowing it access to undertake monitoring and reporting activities, as well as verification at their bases pursuant to Security Council resolution 1612 (2005). The country task force is currently negotiating dates with the Government to follow up on this initiative with a view to advancing action plan commitments with those groups.

United Wa State Army

50. Following the visit of my Special Representative, the country task force met with representatives of UWSA to arrange the modalities for an initial joint assessment visit by the country task force to Northern Shan State at the earliest possible time. The purpose of the visit was to deepen discussions with Wa State authorities on the recruitment and use of children, conduct an assessment of the presence of children in UWSA and the ways in which the country task force could support their protection and reintegration.

51. In November 2007, the country task force made a second request to the Ministry of Foreign Affairs that it facilitate a meeting with the Wa State authorities, in order to carry out the agreed joint assessment visit. The invitation was granted on 28 December 2008, although the purpose of the visit was restricted to observing the developments in the region. UNICEF, on behalf of the country task force, met Wa authorities of Wa Special Region 2 (Wa Region, Eastern Shan State) in January 2008 and visited two military camps. UWSA was managing and running six primary schools at those camp sites, which was worrisome, given the allegations of recruitment and use of child soldiers. The Wa authorities reiterated that the students

were not given military training nor were they engaged in active combat, although children were used in supporting roles, such as cleaning, cooking, etc. According to the UWSA Deputy Commander, his group had stopped recruiting children since the ceasefire with the Government, but UNICEF observed many children among UWSA Brigade 418. It was also observed in one camp school that all children were attired in military uniform.

52. The Vice Chairman of Wa Special Region 2 expressed his displeasure at the fact that UWSA had been listed on the annexes of my report without any prior discussions with the Wa authorities, but agreed to cooperate with the United Nations on an action plan with a view to the group being removed from the list. No further assessment was carried out and there have been no further contact with the Wa authorities to date.

V. Follow-up to conclusions of the Working Group of the Security Council on Children and Armed Conflict

53. Beyond initial limited dialogue with the Government in relation to the action plan(s), progress has been made in a number of respects in follow-up to the recommendations in my first report (S/2007/666) and the subsequent conclusions of the Working Group on Children and Armed Conflict (S/AC.51/2008/8), including significant steps by national authorities outlined in further detail below.

54. The country task force in Myanmar met in August 2008 and expressed a commitment to follow up on the conclusions of the Working Group and extend support to the Government for their implementation, in particular with regard to: (a) preparation and implementation of time-bound action plans by the Government and non-State armed groups pursuant to Security Council resolutions 1539 (2004) and 1612 (2005); (b) monitoring and reporting of grave violations against children with unhindered access and facilitated travel, including to recruitment camps and training centres; (c) the release and reintegration of children associated with armed forces and groups; (d) education and awareness-raising campaigns, including continued training of military recruitment officers; and (e) accession by the Government to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

55. A letter signed by the co-chairs of the country task force was sent to the Minister for Foreign Affairs to request for a meeting with the high-level Committee for the Prevention of Military Recruitment of Underage Children, with the aim of discussing the issues outlined above, to assist in integrating the recommendations of the Working Group into an action plan and to support their implementation. While a meeting between the high-level Committee and the country task force to further discuss these elements has been agreed in principle, no date has been set.

56. The national authorities in Myanmar have informed the United Nations, through regular reports that are being received by the country task force, that they have undertaken a number of important initiatives to address the issue of underage recruitment into military service since my last report. However, it remains difficult to assess or verify the practical implementation of these commitments. It is also important to note that, although there are signs of commitment to sustain the eradication of the recruitment and use of children by high-level representatives in

the Government, awareness and adherence to this commitment by officials at the lower levels are limited. This further reinforces the need for the finalization of an action plan with the Government and an effective and strengthened monitoring mechanism to close the gap between the policy and its application. Increased awareness-raising as to rights and responsibilities under the law and serious enforcement of the law through meaningful penalties for perpetrators would be a critical part of such a strategy.

57. In February 2008, in conformity with the commitments made to my Special Representative, the Government informed the country task force that it had put procedures in place for the rehabilitation and reintegration of underage recruits. However, in cases of children released through Government mechanisms, the country task force is not yet able to verify their release, as it has not been given addresses or other contact details, or the permission to access these children for follow-up purposes. Discussions with senior Government representatives have been initiated by the United Nations in order to address methods for accessing much larger groups of children who are not the subject of a specific complaint with ILO, and which necessitates the ability to undertake inspections of recruitment centres, training schools and camps in order to identify children, gain their release and subsequently support their reintegration and rehabilitation. The Government has, however, recently verbally agreed to provide the United Nations with the addresses and contact details of children released through Government mechanisms.

58. Details of children released and verified as already in the care of their families as a result of ILO interventions have been shared with UNICEF for rehabilitation and reintegration. UNICEF is working towards offering them appropriate support under its existing child-protection programme, subject to Government approval. No broader programme initiative is available at this time.

59. The Government further reported that it had discharged nine military recruitment officers from service for recruiting children in violation of the national military recruitment law, and that other administrative action had been taken against 43 officers for violating Military Defence Council directives on prevention of the recruitment of children. The country task force has not been able to verify these.

60. However, with regard to underage recruitment cases received and verified by ILO, although perpetrators have been identified under its mechanism, to date none of them has been discharged for contravening military regulations or prosecuted under the Penal Code for their actions. ILO notes that, the administrative penalties imposed on military personnel held responsible for underage recruitment had been extended beyond the previous standard of a reprimand recorded on the personnel file to encompass more serious reprimands, the loss of wages or the loss of seniority. It is important to recall that the recruitment of underage children into the army is a criminal offence under Myanmar Law (Penal Code, section 374), which could result in imprisonment for up to 12 months, or a fine, or both.

61. In addition, the Government has accepted the principle that an underage recruit cannot be found guilty of desertion, although it is not clear whether the policy itself has been amended to ensure that minors are not charged with desertion in the first place. In February and June 2008, the Government overturned two cases of conviction of underage recruits imprisoned for desertion, and in May 2008, the Government agreed to facilitate the discharge of an underage recruit who had run away and left the country. Notwithstanding these cases, more awareness-raising is

needed to ensure that the "desertion" of underage recruits from the army is not considered a crime in the first place, and therefore should not be subject to any criminal charge and/or imprisonment.

62. According to the Government, the Directorate of Military Strength continues to organize a number of training activities for active service personnel of various ranks in all military training schools to promote the Government's policy of non-recruitment of persons under the age of 18 years, while the Judge Advocate-General's Office continues to carry out lectures on international law, particularly on the prevention of recruitment of children, to officers from subordinate regiments and companies of Regional Commands, Divisional Supervision Commands and the Military Administration School.

VI. Response to grave violations

63. In Myanmar, the country task force is in the process of strengthening the monitoring and reporting mechanism within the framework of Security Council resolution 1612 (2005). In order to achieve this, a dedicated monitoring and reporting team is necessary to carry out the monitoring in a vigilant and independent manner, to report on grave violations against children and to ensure vigorous follow-up on reports, as well as on agreed actions, with relevant Government focal points. A full team would initially require two international staff and one international interpreter, with the option of phasing in a third international staff member and a second international interpreter in the second year, all with appropriate visa status that would allow them mobility to discharge their functions. ILO, as part of the country task force, is in discussion with a donor to secure funding for a monitor and associated support personnel.

64. The country task force, in coordination with the Government of Myanmar, also undertook the following programmatic responses for affected children in the reporting period:

- UNICEF, supported by ILO and ICRC, provided four training courses to military recruitment officers, as well as for staff of the Ministry of Foreign Affairs, the Ministry of Labour, the General Administration Authority, police and prison services on international law, Myanmar child laws and Military Defence Council directives, and prevention of child recruitment. The Department of Social Welfare, in collaboration with Save the Children and World Vision, organized similar training in November 2007 and December 2008 with technical support from ILO. The Government has committed to continuing this collaboration with the country task force;
- ILO has undertaken six awareness-raising activities on forced labour and child recruitment with the local authorities at the district/township level, as well as in informal village level meetings. ILO presentations were made in two Deputy Township Judges training programmes in April 2008 and 2009;
- Pocket cards on the Child Protection Code of Conduct for Soldiers were provided by UNICEF to the Ministry of Defence for distribution to military personnel;
- The Department of Social Welfare and Save the Children promoted community awareness on the Convention on the Rights of the Child and the 1959

Myanmar Defence Services Act as they pertain to underage recruitment, and distributed instructional pamphlets discussing ways to address child recruitment cases with the authorities.

65. The monitoring and reporting mechanism has been formally established in all nine refugee camps in the border areas in 2008, and is supported by training and awareness-raising activities for camp residents. The responsibilities for verifying cases, as well as awareness-raising on the mechanism in general, and on the issue of child recruitment in particular, have been divided between United Nations agencies. As access to confirm and receive allegations of child recruitment is currently limited to the camps, the mechanism will be extended in 2009 to encompass monitoring, reporting and verifying of information to areas outside of the camps.

VII. Recommendations

66. **While the steps taken to date are appreciated, the Government of Myanmar is strongly urged to put into place a tighter mechanism to prevent the recruitment of children and to demobilize unconditionally all children who participate in any capacity in its armed forces, in coordination with the country task force on monitoring and reporting.**

67. **The Government should, in conjunction with the country task force on monitoring and reporting, address methods for accessing all children who are not the subject of a specific complaint through the ILO mechanism. These should include full and unhindered access of country task force personnel to recruitment centres, training centres and military camps in order to undertake inspections, identify and separate children, and support their reintegration and rehabilitation.**

68. **In addition, the Government is encouraged to maintain and strengthen the application of the ILO Supplementary Understanding complaints mechanism.**

69. **The Government is urged, without further delay, to engage with the country task force to finalize the action plan in line with international standards to prevent recruitment of children and release all children associated with armed forces and groups in Myanmar. To this end, the action plan should provide for: the independent, unaccompanied access by the country task force to recruitment centres, military camps and training centres to monitor, report and verify compliance; access to all non-State actors to facilitate dialogue to conclude action plans for the release and effective reintegration of children; the assurance of security and safety of monitors, witnesses and victims; as well as the establishment of a credible age-verification mechanism.**

70. **The Government is urged to redress the prevailing culture of impunity, to launch investigations into all incidents of recruitment and use of children, to prosecute persons responsible for such acts under the Penal Code, or via instructions or orders, as a matter of priority. Disciplinary processes and action against those responsible for aiding and abetting the recruitment of children, including civilian brokers and some personnel at all levels of the armed forces, must be systematized and institutionalized, and incentives for the recruitment of children removed. To this end, the disciplinary process should be open and transparent and allow for independent verification by the country task force.**

71. **Building on the limited progress thus far, the Government should, with immediate effect, cease the arrest, harassment and imprisonment of children under the age of 18 for desertion and/or attempting to leave the army, and continue to work with the country task force to monitor such cases and to ensure the swift and unconditional release of the children. To this end, the Government is urged to align its relevant policies to ensure that children are not charged with desertion in the first place, and therefore should not be subject to any criminal charge, imprisonment and/or any other form of harassment.**

72. **The Government is encouraged to sign and ratify as early as possible the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and to align national legislation and practice with that commitment.**

73. **While the facilitation by the Government with regard to the Karen National Union-Karenni National Liberation Army Peace Council and the Democratic Karen Buddhist Army is recognized, the Government is urged to remove access restrictions on the United Nations to all other non-State actors, as well as to contested and ceasefire areas, in order to facilitate the necessary discussions of the country task force with those actors and allow regular visits to recruitment centres, training centres and military camps to monitor and verify the absence of children under the age of 18.**

74. **The continued inability of the country task force to access and meet the Karen National Union and Karenni National Progressive Party remains a concern. The concerned Governments are encouraged to assist in this effort of the country task force and facilitate its immediate engagement with KNU and KNPP, in the light of their declared commitments to cease the recruitment and use of children, in order to enable monitoring and independent verification of compliance, and to provide appropriate assistance to demobilize, reintegrate and rehabilitate children from those groups.**

75. **The continued lack of humanitarian access in Myanmar, particularly in contested and ceasefire areas, is an impediment to providing much needed humanitarian assistance. Under the principle of the "best interest of the child" the Government is called upon to ensure full, unhindered and safe humanitarian access for children, to allow free passage for the delivery of humanitarian assistance by the United Nations and other humanitarian organizations to all parts of the country, without exception, and to respect the exclusively impartial nature of humanitarian aid. In this regard, the Government is urged to facilitate and cooperate with United Nations efforts, through the provision of visas, in-country travel authorizations, unescorted access, confidentiality and security. While the largely unimpeded access given in the Delta is acknowledged, the Government is urged to facilitate similar access provisions to all vulnerable areas of the country.**

76. **It is recommended that the Government continue its comprehensive education and awareness-raising activities for the Tatmadaw Kyi, particularly regional commanders, military recruiters and active service personnel of various ranks in all military training schools at the national, regional and divisional levels, with support from the country task force. The activities should direct military personnel to refuse the recruitment of children, and instruct**

them on the investigation, prosecution and disciplinary actions that will be undertaken for recruitment in contravention of applicable international law, Myanmar national law and relevant Military Defence Council directives.

77. **The country task force should, in cooperation with the Government, strengthen its monitoring and reporting capacity with a view to improving its work, in particular to enhance monitoring and reporting on all grave violations against children in Myanmar through increased staffing and geographical coverage; to ensure the implementation of appropriate interventions to respond to these grave violations, including prevention, protection, release and reintegration support, and justice for children affected by armed conflict; as well as to sustain a reduction of instances of such grave violations.**

78. **The country task force is called upon to continue to establish systematic protection dialogue with all parties to the conflict with the goal of creating concrete, time-bound action plans to end the recruitment and use of child soldiers and to address other grave violations as appropriate.**